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EXAMINER

RIVIERE, HEIDI M

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/720,777

**Applicant(s)**

MCMORRIS ET AL.

**Examiner**

HEIDI RIVIERE

**Art Unit**

3689

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1.4.6-10,12-15,18-28,30-32,34-38,40-51 and 53-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1.4.6-10,12-15,18-28,30-32,34-38,40-51 and 53-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/14/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **14 October 2008** has been entered.

## RESPONSE TO REMARKS

2. Applicants' arguments with respect to claims 1-67 have been considered however they are not persuasive and therefore the rejections have not been withdrawn. Examiner used **Sandor** in view of **Schomer** to reject claims 1-67. Applicant continues to argue that the **Sandor Provisional (60/397,401)** does not teach or suggest the steps relied upon by the examiner in rejecting Claims 1-67. However, Examiner finds fault in this argument by noting that the Sandor Provisional anticipates the claimed invention. The Applicant claims are broadly focused to include production in general and all emissions without specific details or data on the system in question or the professed conversions and applicable system and/or calculations. Merely noting that for example "converting the production practice data to environmental data using pre-selected conversion factors" as is mentioned in claim 1 is not enough background to detail what this

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conversion is neither is listing production sectors like agriculture and forestry enough to distinguish the application. For example, Applicant argues against the Sandor reference repeating the argument on the inadequacy of the Sandor provisions 60/397401 filed in July 20, 2002. However, on page 13 of the Sandor Provisional specification the discussion focuses on Certified Emission Offsets. Paragraphs 55-57 detail "eligible projects can be recorded in the Market Registry and will be issued Certified Emission Offsets. Eligible offset projects are agricultural methane destruction for example. Paragraph 58 details what the mitigating quantities should be as well as the ideal conversion to carbon dioxide. See below for the detailed application of the Sandor provisional application to independent claims 1, 31 and 51. Furthermore, the Sandor Provisional goes into further details enabling the complete step by step anticipation of the noted claims by also including mention of identifiers such as serial numbers and vintage for the credits. For example:

3. **With respect to claims 1, 32 and 51: (Currently Amended)** Sandor Provisional teaches:

- selecting a production practice of the producer; (paragraph 49 – Emissions obtained from the sectors of oil and gas, pipelines, landfill methane, industrial forests, reforestation projects to name a few)
- selecting a protocol applicable with the production practice for determining at least one of environmental emissions and environmental emissions removal; (paragraphs 8, 12 and 47 - protocols developed from US Environmental Protection Agency and

World Resources Institute/World Business Council for Sustainable Development initiative are utilized)

- collecting production practice data of the producer for a pre-selected time period responsive to the protocol; (paragraphs 53 and 63 – quarterly emission reports)
- converting the production practice data to environmental data using pre-selected conversion factors; (paragraphs 36-38 – “all greenhouse gases will be converted to carbon dioxide equivalent using one hundred year global warming potential values published by the Intergovernmental Panel on Climate Change”; “Each instrument represents one metric ton of CO<sub>2</sub>...designated with a specific serial number and annual vintage”; instruments are considered Greenhouse Gas Emission Allowances, Certified Emission Offsets and Certified Early Action Credits)
- designating a geographical reference for the producer; (paragraphs 49 and 58 – Emissions obtained from the sectors of oil and gas, pipelines, landfill methane, industrial forests, reforestation projects to name a few; “the Committee will also recommend additions to the list of eligible offset project types and locations”)
- converting the environmental data to an emission reduction unit for a transferring thereof; (paragraphs 36-38 – “all greenhouse gases will be converted to carbon dioxide equivalent using one hundred year global warming potential values published by the Intergovernmental

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Panel on Climate Change”; “Each instrument represents one metric ton of CO<sub>2</sub> ...designated with a specific serial number and annual vintage”; instruments are considered Greenhouse Gas Emission Allowances, Certified Emission Offsets and Certified Early Action Credits) and

- assigning an identifier to the emission reduction unit, wherein the identifier includes a sequence portion characterizing a succession thereof and a vintage portion characterizing the pre-selected time period for the production practice, and a characterizing portion characterizing at least one of the geographical reference and the protocol. (paragraphs 37-38 – “Each instrument represents one metric ton of CO<sub>2</sub> ...designated with a specific serial number and annual vintage”; instruments are considered Greenhouse Gas Emission Allowances, Certified Emission Offsets and Certified Early Action Credits )

As a result, the rejections have not been withdrawn.

4. The discussion regarding the 35 USC 101 rejection has been acknowledged and are not persuasive. Applicant argues that the presented claims involve transformation. However, the adequately reflect transformation the claimed limitation must transform the subject matter to a different state or thing. In the present application data remains data and is not transformed in to a different state. The subject matter “data” is not transformed into a different state or thing but merely remains “data”. Therefore, the rejections are not withdrawn.

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5. Examiner acknowledges Applicant's argument with regards to the 35 USC 112 P1 rejections. However, Examiner notes that these arguments are not persuasive. There still remains a question of how to accomplish key aspects of the claimed invention beyond the presented general and overly broad disclosure. Therefore the rejection has not been withdrawn.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. **Claim 1, 6-12, 14, 15, 17-19, 21, 22, 24-26, 27, 28, 31-35, 40-42, 44, 46, 50-55, 57-61, 63, 64, 66-67** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The applicant's specification does not adequately disclose sufficient guidance and direction to enable one of skilled in the art to make or use the Applicant's invention. For example, in claim 1, the applicant refers to the steps of *selecting a production practice of the producer, selecting a protocol applicable with the production practice, converting the production practice data to*

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*environmental data using pre-selected conversion factors, converting the environmental data to an emission reduction unit for a transferring thereof.*

Referring back to the written description of the invention, Applicant fails to provide sufficient direction or working examples of: what defines the protocol selected? How is it determined? What formula(s) is/are used to convert the data? What is the emission reduction unit and how is it calculated or is it a physical structure? How is the calculation performed? The applicant has provided no formulas with which the applicant performs the calculation. Also, the applicant has not defined what an emission reduction unit is.

More guidance is necessary in the present application based on Applicant's own disclosure stating "[u]nfortunately, standards for serialization and registration are sketchy and inconsistent" (Specification: page 3). Despite this statement Applicant fails to provide sufficient guidance and direction regarding the claimed invention. Instead the written description is replete with generalizations hence failing to provide specific direction.

8. **Claims 1, 6, 7, 9-15, 17-22, 24-26, 28, 30-32, 34, 40-44, 46, 50, 51, 54, 56-61, 63, 64, 67** were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner acknowledges Applicant's arguments therefore the rejection is withdrawn.



***Claim Rejections - 35 USC § 101***

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. **Claims 1-67** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

According to recent Federal Circuit decisions, in order for a process to be a proper process under 35 USC 101, it must be tied to another statutory class of invention (such as a particular apparatus) or transform subject matter to a different state or thing. If neither of these requirements is met by the claim, the method is not a patent eligible process under section 101. Therefore, Applicant incorrectly states on Remarks, page 19, paragraph 2 "it is understood that the question of whether a claim encompasses statutory subject matter should not focus on which of the four categories of subject matter a claim is directed to (process, machine, manufacture, or composition of matter) but rather on the essential characteristics of the subject matter, in particular, its particular utility." This is not a valid statement under 35 USC Section 101. Therefore, although Applicant claims the steps of a process, Applicant fails to claim or mention the presence of another statutory class. Not even the use of an apparatus is claimed. Applicant's claimed invention is as a result not statutory. The rejection is not withdrawn.

***Information Disclosure Statement***

11. The Information Disclosure Statements filed on **14 October 2008** has been considered. Initialed copies of the Form 1449 are enclosed herewith.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 1, 4, 6-10, 12-15, 18-28, 30-32, 34-38, 40-51, 53-67** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sandor et al. (US 2002/0246190 A1)** (hereinafter "**Sandor**") in view of **Schomer (US 6,108,617)**.

14. **With respect to claims 1: (Currently amended)** Sandor teaches:

- collecting production practice data of the producer for a pre-selected time period responsive to the protocol, said protocol being adapted to determine at least one of environmental emissions and environmental emissions removal associated with a production practice of said producer, wherein; (a) said environmental emissions removal is selected from a practice group consisting of sequestration, mitigation and avoidance, and (b) said production practice data is related to at

least one of the following production sectors: agriculture, forestry, petroleum production, gas production, enhanced oil recovery, fuel production, ethanol production, semiconductor manufacturing, metal production, coal production, deep geologic sequestration, durable goods manufacturing, and waste management; (page 2, paragraph 21

– activity data collected based on energy consumption)

- converting the production practice data to environmental data using pre-selected conversion factors; (page 2, paragraph 21 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”)
- converting at least a portion of the environmental data to a plurality of emission reduction unit for a transferring thereof, each said emission reduction unit being adapted for use as at least one of an environmental offset, a credit, and an allowance; (page 2, paragraph 21 and page 3, paragraph 28 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”; factor is based on selected activity unit) and

While Sandor does not teach, Schomer discloses:

- assigning a respective identifier to each emission reduction unit, wherein the identifier includes a sequence portion characterizing a succession thereof and a vintage portion characterizing the pre-selected time period for the production practice, and a characterizing portion characterizing at least one of (i) a geographical reference for

the producer and (ii) the protocol, said characterizing portion comprising at least one of a first field identifying a protocol type, a second field identifying a version of the protocol, and a third field identifying an authority for the protocol; wherein. (col. 5, tables 2 and 3 – various alphanumeric and numeric codes specified)

- said identifier is adapted to be correlated with the production practice data and enables tracking of a status regarding the emission reduction unit. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the details of the production practice and emission reduction unit of Sandor with the identifier in Schomer because of the need “to provide limited access to the data” (col. 2, lines 45-46).

Furthermore, the data identifying the characterizing portion in the current and following claims and the type production data is non-functional descriptive data.

When presented with a claim comprising descriptive material, an Examiner must determine whether the claimed nonfunctional descriptive material should be given patentable weight. The Patent and Trademark Office (PTO) must consider all claim limitations when determining patentability of an invention over the prior art. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401,404 (Fed. Cir. 1983). The PTO may not disregard claim limitations comprised of printed matter. *See Gulack*, 703 F.2d at 1384-85, 217 USPQ at 403; *see also Diamond v. Diehr*, 450 U.S. 175, 191, 209 USPQ 1, 10 (1981). However, the examiner need not give

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patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. See *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338, 70 USPQ2d 1862, 1863-64 (Fed. Cir. 2004). Thus, when the prior art describes all the claimed structural and functional relationships between the descriptive material and the substrate, but the prior art describes a different descriptive material than the claim, then the descriptive material is nonfunctional and will not be given any patentable weight. That is, such a scenario presents no new and unobvious functional relationship between the descriptive material and the substrate.

The Examiner asserts that the data identifying the characterizing portion adds little, if anything, to the claimed acts or steps and thus do no serve as limitations on the claims to distinguish over the prior art. MPEP 2106IV b 1(b) indicates that "nonfunctional descriptive material" is material "that cannot exhibit any functional interrelationship with the way the steps are performed". Any differences related merely to the meaning and information conveyed through data, which does not explicitly alter or impact the steps is non-functional descriptive data. Except for the meaning to the human mind, the data identifying the selectable options and the information displayed upon selection of the options does not functionally relate to the substrate and thus does not change the steps of the method as claimed. The subjective interpretation of the data does not patentably distinguish the claimed invention.

15. **With respect to claim 2: (Cancelled)**

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**16. With respect to claim 3: (Cancelled)**

**17. With respect to claims 4, 38 and 53:** Sandor teaches the geographical reference includes a location representative of the production practice. (page 3, paragraph 24 – geographic location is one of the factors used).

Furthermore, the data identifying the geographic reference in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

**18. With respect to claim 5: (Cancelled)**

**19. With respect to claim 6:** Sandor teaches the limitations cited above. While Sandor does not disclose, Schomer teaches the emission reduction unit comprises a plurality of emission reduction units resulting from the environmental data converting, and wherein the sequence portion of the identifier includes a range of sequence numbers representing the plurality of emission reduction units. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the details of the production practice and emission reduction unit of Sandor with the identifier in Schomer because of the need “to provide limited access to the data” (col. 2, lines 45-46).

Furthermore, the data identifying the details of the identifier in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

**20. With respect to claims 7, 34 and 54: (Currently Amended)** Sandor teaches pre-selected conversion factors selected from the group including

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reducing GHG emissions, providing clean water credits, providing clean air credits, providing soil erosion credits, and certifying animal welfare. (page 2, paragraph 21 and page 3, paragraph 28 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”; factor is based on selected activity unit).

Furthermore, the data identifying the production practice in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

**21. With respect to claims 8, 35 and 55:** Sandor teaches the GHG reducing includes a parameter selected from parameters including effluent loading, quantity animals, manure containment storage period, manure containment storage practice, annual animal throughput, flaring volume, flaring efficiencies, gas types and generation rates, and chemical manufacturing efficiencies and emissions. (page 9, paragraphs 105, 107-108 – factors used to generate credits are methods that lead to reduction in CO<sub>2</sub> emissions).

Furthermore, the data identifying the type of GHG reducing in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

**22. With respect to claim 9:** Sandor teaches transmitting the production practice data to a data center; and receiving the production practice data at the data center; (page 4 paragraphs 52-54 – registry stores emission reduction practices and results).

23. **With respect to claims 10 and 56:** Sandor teaches storing the identifier in a database; storing the production practice data in the database; and correlating the production practice data with the identifier for access thereto. (page 4 paragraphs 52-54 – registry stores emission reduction practices and results; registry has secure Internet access).

24. **With respect to claim 11: (Cancelled)**

25. **With respect to claims 12, 40 and 61:** Sandor teaches at least one of selling, transferring, exchanging, and retiring the emission reduction unit. (page 4, paragraph 56; page 9, paragraph 111 - at year-end emission source must transfer allowances or offsets equal to total emissions).

26. **With respect to claim 13:** Sandor teaches warranting the production practice data by the producer. (page 5, paragraphs 69-70 – rules designate activities and monitor emissions).

27. **With respect to claim 14:** Sandor teaches registering the emission reduction unit. (page 4 paragraphs 52-54 – registry stores emission reduction practices and results).

28. **With respect to claims 15, 41 and 60:** Sandor teaches at least one of verifying a commercial suitability of the environmental emission unit, recording the registering, designating ownership of the environmental emission unit, and monitoring a transaction thereof. (page 4 paragraphs 52-54 – registry stores emission reduction practices and results).

29. **With respect to claim 16: (Cancelled)**

30. **With respect to claim 17: (Cancelled)**



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31. **With respect to claim 18:** Sandor teaches the converting to an emission reduction unit includes choosing a registry jurisdiction. (page 5, paragraph 62 – details the information that can be included in the registry such as system products and emission reduction commitments).

32. **With respect to claims 19, 42 and 61:** Sandor teaches assigning a registry designator to the emission reduction unit and correlating the registry designator to the registry jurisdiction. (page 5, paragraph 62 – details the information that can be included in the registry such as system products and emission reduction commitments).

33. **With respect to claims 20, 43 and 62:** Sandor teaches the limitations cited above. However, while Sandor does not Schomer teaches storing the registry designator, identifier, and production practice data; correlating the registry designator with the identifier and the identifier with the production practice data for access thereto. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the details of the production practice and emission reduction unit of Sandor with the identifier in Schomer because of the need “to provide limited access to the data” (col. 2, lines 45-46).

34. **With respect to claims 21 and 63:** Sandor teaches providing a password for retrieving the registry designator; and receiving a status regarding at least one of the emission reduction unit and the production practice data. (page 4, paragraph 54 – secure Internet access by participants).

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35. **With respect to claims 22 and 44:** Sandor teaches transferring the emission reduction unit and providing a transaction verification therewith, wherein the transaction verification includes the identifier of the emission reduction unit. (page 4, paragraph 56; page 9, paragraph 111 - at year-end emission source must transfer allowances or offsets equal to total emissions).

36. **With respect to claims 23, 45 and 65:** Sandor teaches the transaction verification includes a certificate having the identifier carried thereon. (page 4, paragraph 56; page 9, paragraph 111 - at year-end emission source must transfer allowances or offsets equal to total emissions; verification reports issued).

37. **With respect to claims 24 and 46:** Sandor teaches the identifier provides information regarding the protocol, the pre-selected time period, the geographical reference, and a sequence for the emission reduction unit corresponding to the emission reduction unit transferring. (page 3, paragraph 24 – geographic location is one of the factors used; page 4, paragraph 56; page 9, paragraph 111 - at year-end emission source must transfer allowances or offsets equal to total emissions).

38. **With respect to claim 25:** Sandor teaches establishing a pool of emission reduction units and accessing the pool during a point of sale event for reducing at least a portion of the environmental emissions resulting from the point of sale event. (page 4, paragraphs 59 - 60 – emission allowances sold at auction).

39. **With respect to claim 26:** Sandor teaches transferring the emission reduction unit for offsetting at least a portion of an environmental emission.

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(page 4, paragraph 56 - at year-end emission source must transfer allowances or offsets equal to total emissions).

40. **With respect to claims 27 and 47:** Sandor teaches the environmental emission results from at least one of an emitter, a plurality of emitters, and a variety of emitters, and wherein the emitter is at least one of a direct emitter and an indirect emitter. (page 7, paragraph 84 – multi sector emissions monitoring).

41. **With respect to claim 28:** Sandor teaches allocating emission reduction units resulting from a plurality of producers controlled by a controlling entity for offsetting environmental emissions of the controlling entity. (page 9, paragraphs 105-107 – offset project categories include carbon sequestration).

42. **With respect to claim 29: (Cancelled)**

43. **With respect to claims 30, 49 and 66:** Sandor teaches recording a time for the production practice data collecting and a geographic location thereof. (page 3, paragraph 24 – geographic location is one of the factors used).

44. **With respect to claims 31, 50 and 67:** Sandor teaches comprising reserving an emission reduction unit having at least one of a pre-selected geographic reference, protocol, and time period. (page 3, paragraph 24 – geographic location is one of the factors used).

45. **With respect to claim 32: (Currently amended)** Sandor teaches:

- storing production practice data of at least one producer in a database, said production practice data being representative of at least one of environmental emissions and environmental emissions removal for a time period, said production practice data being

collected for a pre-selected time period responsive to a protocol, said protocol being adapted to determine at least one of environmental emissions and environmental emissions associated with a production practice of said producer; wherein

- a. said environmental emissions removal is selected from a practice group consisting of sequestration, mitigation and avoidance, and said production practice data is related to at least one of the following production sectors: agriculture, forestry, petroleum production, gas production, enhanced oil recovery, fuel production, ethanol production, semiconductor manufacturing, metal production, coal production, deep geologic sequestration, durable goods manufacturing, and waste management;
- storing a plurality of identifiers in the database, each said identifier being assigned to a respective one of [(the)] a plurality of emission reduction units, wherein each said emission reduction unit results from (i) converting the production practice data to environmental data using pre-selected conversion factors and (ii) converting the environmental data to the plurality of emission reduction units for a transferring thereof, each said emission reduction unit being adapted for use as at least one of an environmental offset, a credit, and an allowance; wherein,

- b. the identifier includes a sequence portion characterizing a succession thereof, a vintage portion characterizing the time period for the production practice, and a characterizing portion characterizing at least one of (i) a geographical reference for the producer and (ii) the protocol, said characterizing portion comprising at least one of a first field identifying a protocol type, a second field identifying a version of the protocol, and a third field identifying an authority for the protocol, wherein said identifier is adapted to be correlated with the production practice data and enables tracking of a status regarding the emission reduction unit.

(Sandor: paragraphs 190-191 – the databases 1534 can stored on a non-volatile storage medium or a device known to those of ordinary skill in the art (e.g., compact disk (CD), digital video disk (DVD), magnetic disk, internal hard drive, external hard drive, random access memory (RAM)).

46. **With respect to claim 33: (Cancelled)**

47. **With respect to claim 36: (Currently amended)** Sandor teaches the limitations cited above. While Sandor does not disclose, Schomer teaches the characterizing portion of the identifier includes at least one of a first field identifying a protocol type, a second field identifying a version of the protocol, and a third field identifying an authority for the protocol. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed).

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48. **With respect to claim 37:** Sandor teaches the pre-selected time period comprises a calendar year for the production practice by the producer. (page 5, paragraph 72 – baseline emission levels reviewed on a year to year basis among participants)

Furthermore, the data identifying the specific time period in the current and following claims is non-functional descriptive data. See non-functional descriptive data discussion above.

49. **With respect to claim 39: (Cancelled)**

50. **With respect to claim 47: (Currently amended)** Sandor teaches wherein [[the]] an environmental emission is offset by an emission reduction unit and said environmental emission results from at least one of an emitter, a plurality of emitters, and a variety of emitters, and wherein the emitter is at least one of a direct emitter and an indirect emitter. (page 7, paragraph 84 – multi sector emissions monitoring).

51. **With respect to claim 48: (Currently amended)** Sandor teaches allocating at least a portion of the plurality of emission reduction units to a producer of environmental emissions for an offsetting thereof. (page 4, paragraph 56 - at year-end emission source must transfer allowances or offsets equal to total emissions).

52. **With respect to claim 51: (Currently amended)** Sandor teaches:

- converting [[the]] production practice data to environmental data using-the- protocol pre-selected conversion factors, said production practice data being collected from at least one producer for a pre-

selected time period responsive to a protocol, said protocol being adapted to determine at least one of environmental emissions and environmental emissions removal associated with a production practice of said producer, wherein; said environmental emissions removal is selected from a practice group consisting of sequestration, mitigation and avoidance; and said production practice data is related to at least one of the following production sectors: agriculture, forestry, petroleum production, gas production, enhanced oil recovery, fuel production, ethanol production, semiconductor manufacturing, metal production, coal production, deep geologic sequestration, durable goods manufacturing, and waste management; (page 2, paragraph 21 and page 3, paragraph 28 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”; factor is based on selected activity unit)

- converting at least a portion of the environmental data to a plurality of emission reduction units, each said emission reduction unit being adapted for use as at least one of an environmental offset, a credit, and an allowance; wherein, (page 2, paragraph 21 and page 3, paragraph 28 – “a factor for converting the activity data to one of the GHG emission or GHG emission conversion equivalents”; factor is based on selected activity unit)

While Sandor does not teach, Schomer discloses:

- a. each of the plurality of emission reduction units has an assigned identifier, comprising a sequence portion characterizing a succession thereof and a vintage portion characterizing the pre-selected time period for the production practice, and a characterizing portion characterizing at least one of [[the]] (i) a geographical reference for the producer and (ii) the protocol, said characterizing portion comprising at least one of a first field identifying a protocol type, a second field identifying a version of the protocol, and a third field identifying an authority for the protocol; wherein, said identifier is adapted to be correlated with the production practice data and enables tracking of a status regarding the emission reduction unit. (col. 3, table 1, col. 5, tables 2-3 – various identifiers listed)

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the details of the production practice and emission reduction unit of Sandor with the identifier in Schomer because of the need “to provide limited access to the data” (col. 2, lines 45-46).

53. **With respect to claim 52: (Cancelled)**

54. **With respect to claim 57:** Sandor teaches providing a password for accessing the database; accessing the database using the password; providing the identifier of the emission reduction unit; and receiving a status regarding the



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emission reduction unit. (page 4 paragraphs 52-54 – registry stores emission reduction practices and results; registry has secure Internet access).

55. **With respect to claim 58:** Sandor teaches registering at least a portion of the plurality of emission reduction units within a registry jurisdiction for providing a plurality of registered units. (page 5, paragraph 62 – details the information that can be included in the registry such as system products and emission reduction commitments).

56. **With respect to claim 64:** Sandor teaches providing a transaction verification for each of the plurality of registered units transferred out of the registry. (page 9, paragraph 111 – registry accounts have verification reports).

#### ***Other References***

57. Examiner also considered the US patent Soestbergen et al. (2002/0143693 A1) which reads on the limitations documented in independent claims 1, 32 and 51.

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### **CONCLUSION**

58. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heidi Riviere whose telephone number is 571-270-1831. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. R./  
Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689

